THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3552 OF 2007

DATED 23rd FEBRUARY, 2007

Between

Indroji Annapurna and others

... Petitioners

AND

The Joint Collector-II, Ranga Reddy District at Lakdikapool, Hyderabad and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3552 OF 2007

ORDER:

The dispute in this writ petition is in respect of inam land admeasuring Acs.17.05 guntas in Kandukuru Village and Mandal of Ranga Reddy District. The land is comprised in survey Nos.158, 159, 231, 233 to 235, 811 to 814. It is inam land governed by A.P. (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity).

The petitioners allege that Indroji Venkataswamy and Indroji Muthaiah, sons of late Sri Indroji Ramaswamy were the original inamdars. After death of Venkataswamy, his sons Ambaiah, Ramaswamy, Rangaiah and Chennaiah succeeded to the property. Muthaiah had no children. They also allege that Veeramma, W/o Muthaiah brought up one Kankaiah and performed his marriage with Rajamma. The sons of Venkataswamy allegedly succeeded to the inam land. In oral family partition, all of them got 25% share each admeasuring Acs.4.11 guntas. Subsequently the children of four brothers succeeded to the property. They are the petitioners in this writ petition. Respondents 4 to 8 claiming themselves to be members of the family belonging to Venkataswamy branch (original joint inamdar) approached the second respondent claiming Occupancy Rights Certificate (ORC) under the Act. By proceedings No.J/1158/1998, dated 14.05.1998, second respondent issued ORC in their favour.

After grant of ORC, those respondents were shown in the revenue records as owners and possessors of the land. The petitioners allege that the names of the original inamdars were removed in the revenue records. They also allege that the petitioners are from carpenter community whereas respondents 4 to 8 belong to goldsmith community and they can never claim to be legal heirs of Venkataswamy. They also allege that the second respondent issued ORC without conducting enquiry and without issuing notice to the petitioners or their successors. On 14.08.2006, when third parties were surveying the land, the petitioners enquired the Mandal Revenue Officer (MRO) and having come to know about granting ORC to respondents 4 to 8, filed an application on 18.08.2006 with the third respondent seeking certified copy of the proceedings of the second respondent, dated 14.05.1998, which was issued to them on 21.08.2006. They then filed Appeal under Section 24 of the Act before the first respondent, who rejected the same by proceedings No.F1/5084/2006, dated 09.01.2007. This writ petition is filed assailing the said order.

Learned counsel for the petitioners submits that the second respondent failed to issue notice to the petitioners before granting ORC to respondents 4 to 8, and therefore, the proceedings of the second respondent is void and the first respondent failed to notice the error while exercising appellate power. According to the learned counsel, dismissal of the Appeal on the ground of limitation is erroneous and there is no limitation prescribed under the Act for claiming ORC.

The first respondent dismissed the Appeal filed by the petitioners mainly on the ground that the claim for ORC after long lapse of time cannot be considered. It was also dismissed on the ground that the petitioners failed to place any material to know whether they represent all the legal heirs of the alleged pattadars or whether they represent only a partial interest. The Joint Collector also observed that the petitioners failed to establish whether all of them are legal heirs of the persons, whose names are appearing in the Pahanis for 1973-1974, and therefore, they have no *locus standi*. Yet another ground for dismissal of Appeal was that they have approached the Joint Collector under Section 24 of the Act eight years after the grant of ORC to respondents 4 to 8.

In exercise of powers under Section 35(1) of the Act, A.P. (Telangana Area) Abolition of Inams Rules, 1975 (the Rules, for brevity) were made. These Rules came into force with effect from 28.06.1975. Rule 5 of the Rules provided that any of the persons claiming ORC has to make an application within a period of ninety

days from the date of coming into force of the Rules. In 1976, by orders issued in G.O.Ms.No.176, dated 11.02.1976 (published in the Gazette, dated 14.02.1976), Rule 5 was modified prescribing a limitation period of nine months for making application. Again Rule 5 was substituted by G.O.Ms.No.1020, dated 05.10.1994, with effect from 10.10.1994. As it stands now, an enquiry by the Inams Tribunal for the purpose of Registration of Inamdar or protected tenant, as the case may be, can be either *suo motu* at any time or on an application by inamdar. There is no limitation prescribed. In the case on hand, however, the petitioners allege that after death of Indroji Venkataswamy, there was oral partition among four sons. The details of this oral partition as to in which year it took place, when Venkataswamy died are all absent. Secondly, though the petitioners claim that they succeeded to the property of Venkataswamy, they never made any application before Inams Tribunal for ORC. It is only after August, 1986, they filed Appeal. Therefore, as per Rule 5, which existed prior to issue of G.O.Ms.No.1020, dated 05.10.1994, the petitioners could not have made an application for ORC as inamdars as it was certainly barred by limitation.

Insofar as the delay in filing the Appeal is concerned, there is no denial that the petitioners preferred Appeal only after 21.08.2006, which is certainly barred by limitation prescribed under Section 24 of the Act, it appears the petitioners did not even file an application for condonation of delay presumably for the reason that they have claimed that they have no knowledge. When they were claiming succession through their ancestors, it is unimaginable that they kept quite without applying for ORC or without keeping a track on the nature and history of tenure to the land. Therefore, there is no infirmity in the view taken by the first respondent while dismissing the Appeal.

The writ petition is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

23.02.2007.
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